

**United States District Court
District of Massachusetts**

**FILED
IN CLERK'S OFFICE**

PAUL M. NGOBENI,

PLAINTIFF,

v.

**CHRISTOPHER M. BROWN, OFFICER
TETREALT, PAULA C. MEARA,
MARCUS LAWRENCE M. DUMAS,
HAMILTON WRAY, THOMAS
HERVIEUX, KENNETH MURRAY,
DEFENDANTS.**

2005 JUN -7 P 12: 25

**U.S. DISTRICT COURT
DISTRICT OF MASS.
3:04-CV-30167-MAP**

MOTION TO DISMISS

Now comes the defendants in the above-captioned case and move this honorable court to dismiss the complaint due to the plaintiff's failure to prosecute and failure to obey the pretrial scheduling order. In support, defendants rely on the pleadings in this case and the arguments contained herein.

The conduct of the plaintiff in this case is within the ambit of both Federal Rule of Civil Procedure 41(b) (dismissal for failure to prosecute or failure to follow court rules) and Federal Rule of Civil Procedure Rule 16(f) (Sanction of dismissal for failure to obey pretrial or scheduling order).

As noted in the docket entries plaintiff failed to appear in court for the pre-trial conference held on June 1, 2005 and, as noted by the defendants joint submission, plaintiff has not cooperated in preparing a scheduling order.

In addition, the plaintiff's phone number listed in the court's docket is not in service. An internet search for the plaintiff has revealed that he is a member of the Massachusetts Bar who is

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COPY

under an administrative suspension. The only address listed is East Hartford, Connecticut. The address listed on the State of Connecticut Judicial Branch is the same as that listed in the pleadings in this case. Copies of the results of the internet search are attached.

Under similar conditions, the First Circuit has upheld dismissal as no abuse of discretion. *Zavala Santiago v. Gonzalez Rivera*, 553 F.2d 710, 712-13 (1st Cir.1977). Based on the record establishing grounds for dismissal, without any excuse, defendants join in this motion.

WHEREFORE Defendants request this case be dismissed, with prejudice.

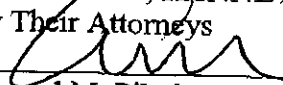
Dated: June 7, 2005

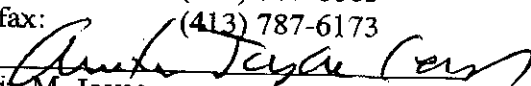
<p>CERTIFICATE OF SERVICE The undersigned hereby certifies that a true copy of the within Document was this day served upon Plaintiff by mailing copy of same or hand delivery to: Paul M. Ngobeni 914 Main Street, Suite 206 East Hartford, CT 06108 PRO SE Plaintiff. SIGNED under the pains and penalties of perjury. Dated: 6/7/05 Edward M. Pikula, Esquire</p>
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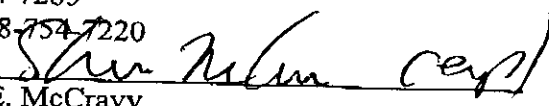
Respectfully submitted.

Defendants:

**CHRISTOPHER MURPHY, OFFICER
TETRAULT, PAULA C. MEARA,
MARCUS LAWRENCE M. DUMAS ,
HAMILTON WRAY , THOMAS
HERVIEUX , KENNETH MURRAY**
By Their Attorneys


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Juris No.	Juris Type	Name	Firm Name and Address
401506	A	PAUL MPANDE NGOBENI (Admitted: 12/08/1989)	SUITE 206 914 MAIN STREET EAST HARTFORD, CT 06108

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Massachusetts Board of Bar Overseers	
of the Supreme Judicial Court 99 High Street Boston, Ma. 02110 Attorney Status Report	
Paul Mpande Ngoben East Hartford CT 06108 Admitted to the bar on 1990-06-14 Current status is Administratively Suspended Next Registration : June	Full office addresses for active status attorneys only.
Disciplinary History	Data as of 2005-06-07
1. 6/11/1998 RR: Recip. Reprimand from other Juris.	

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